

EXHIBIT “B”

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

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WAYNE BERRY,))
Plaintiff,) CIVIL NO. 01-00446SPK-LEK
vs.))
FLEMING COMPANIES, INC.,)
aka FLEMING FOODS, INC.,)
aka FLEMING, DOE)
INDIVIDUALS 1-50 and)
DOE PARTNERSHIPS,)
CORPORATIONS and OTHER)
ENTITIES 1-20,)
Defendants.))

13 TRANSCRIPT OF PROCEEDINGS

15 The above-entitled matter came on for Further
16 Jury Trial commencing at 9:20 a.m. on Friday, February
17 28, 2003, Honolulu, Hawaii,

19 BEFORE: HONORABLE SAMUEL P. KING
20 United States District Judge
21 District of Hawaii

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25 Notary Public, State of Hawaii

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A P P E A R A N C E S

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6 FOR PLAINTIFF: TIMOTHY J. HOGAN, ESQ.

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WESLEY W. ICHIDA, ESQ.

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LYNCH ICHIDA THOMPSON KIM & HIROTA

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1132 Bishop Street, Suite 1405

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14 FOR DEFENDANTS: LEX R. SMITH, ESQ.

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ANN TERANISHI, ESQ.

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Kobayashi, Sugita & Goda

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First Hawaiian Center

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24 ALSO PRESENT: Ralph Stussi

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1 THE COURT: You're through for this
2 morning.

3 THE WITNESS: Okay. Yes.

4 (Witness excused.)

5 THE COURT: Okay. Recess.

6 (Recess taken 11:20 - 11:35 a.m.)

7 THE COURT: Note the presence of the
8 jury.

9 Please be seated. Swear the witness.

10 RALPH STUSSI

11 was called as a witness by the plaintiff, after having
12 been sworn to tell the truth, the whole truth and
13 nothing but the truth, was examined and testified as
14 follows:

15 THE CLERK: Please be seated. State
16 your name for the record and spell your last name,
17 please.

18 THE WITNESS: Ralph Stussi, S-t-u-s-s-i.

19 DIRECT EXAMINATION

20 BY MR. HOGAN:

21 Q. Good morning, Mr. Stussi. I guess it's still
22 morning.

23 Would you state where are you presently
24 employed, sir?

25 A. For Fleming Companies, Inc.

1 Q. And you are not presently the Hawaii division
2 president, are you, sir?

3 A. No, sir.

4 Q. And were you ever the Hawaii division
5 president?

6 A. Yes, I was.

7 Q. When did you cease being the Hawaii division
8 president?

9 A. April of 2002.

10 Q. And where do you presently work, sir?

11 A. I'm at the Garland, Texas division as the
12 division president.

13 Q. Now are you a certified public accountant,
14 sir?

15 A. Yes, I am.

16 Q. And in that job you review a lot of paper in
17 your work as a certified public accountant?

18 THE COURT: Do you want to treat him as
19 an adverse witness?

20 MR. HOGAN: Yes, Your Honor, if I may.

21 THE COURT: Do you have any objection?

22 MR. SMITH: No objection.

23 THE COURT: I mean you're going to do it
24 anyway, so might as well have the record show it, even
25 though he may not be adverse. You may do so.